



Department of Justice

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ADDRESS

BY

ATTORNEY GENERAL NICHOLAS deB. KATZENBACH

EMORY UNIVERSITY LAW DAY CEREMONIES

SATURDAY, APRIL 24, 1965
ATLANTA, GEORGIA

President Atwood, Dean Johnson, members of the faculty, and ladies and gentlemen of Emory:

It is a very great pleasure for me to come to join in a Law Day ceremony in this state. From its earliest history, Georgia has stood in the forefront of morality. The charitable groups in England who sponsored settlement of the colony of Georgia provided generous contributions, including thousands of books. One of them was A Friendly Admonition to the Drinkers of Gin, Brandy, and other Spirituous Liquors, a volume whose message, I am confident, has not been lost.

Just as it is a pleasure for me to come to Georgia, it is an honor for me to come to Emory, whose reputation for academic excellence extends far beyond the bounds of your state. I am particularly happy to come here in view of how long it has been since you took one of your more liberal and progressive steps. It was as long ago as 1941 that you first permitted dancing on the campus.

Four years ago, my predecessor came to Georgia on Law Day to make his first address as Attorney General. Robert Kennedy went on to become a truly great Attorney General and, when Mr. Gambrell extended me Emory's invitation, I thought I could well follow his example.

Attorney General Kennedy told his audience on that occasion that desegregation orders of the Federal courts would be upheld. "If the orders of the court are circumvented," he said, "the Department of Justice will act. We will not stand by or be aloof. We will move."

Much--both gallant and tragic--has happened since those words were spoken. The Department of Justice did not stand by and it was not aloof. It did move, and it will continue to move whenever there is an attempt to defy or evade the orders of the courts and the orderly process of justice. Under the Constitution, that is our responsibility.

I do not come to talk today, however, as it was necessary for Robert Kennedy to talk, about Federal responsibilities to the law. We are now embarked on a new time and in a new spirit. Thus, I come, rather, to talk about the responsibilities of all of us to the law that governs all of us.

When one scans the horizon of a lawful society, the Department of Justice plays only a small part. The Constitution has wisely limited the role of the Federal government in matters of law and law enforcement. Furthermore, even the courts, and state and local bodies charged with guarding and enforcing the law are not the dominant forces in preserving a lawful society.

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In a democratic state, the dominant force lies in the citizenry itself. A democratic system necessarily disburses the burden of responsibility to every person.

The responsibility of every person for the working of the law-- that is really what Law Day is all about. In an authoritarian country, the final responsibility is in the oppressive hand of the state. A democracy is bound together by respect for the law and individual responsibility.

There is no better place to discuss this theme than at Emory. Emory's influence in the emergence of Atlanta as a commercial and cultural center has been significant. You have taught responsibility to generations of leaders, a fact evident from Atlanta's constructive record of facing up to changes in racial relations.

A basic postulate of responsibility in a democracy is that the loser in an election must accept its results. If he and his backers withdrew from the system because they opposed the aims of the winner, the system could obviously not endure.

A corollary understanding is that each individual must obey not only those laws which he affirms and agrees with, but also those with which he disagrees. Without this kind of understanding, there would be chaos.

There are those who ignore or frustrate civil rights laws because they do not agree with them. If such people acted similarly with other laws--if they did not pay their taxes, or refused to serve in the military, or ignored red lights when they were late to work in the morning--our civilization would come unstuck.

Taxes are a good example of voluntary compliance with the law. The money we mailed in to the Internal Revenue Service last week might have been more agreeably spent on a new car, or furniture, or a vacation in the Caribbean. But we sent in our checks to the government anyway, almost all of us, without a police officer standing at the door.

The Federal Government collected \$112 billion in taxes last year. Over 97 percent of that was collected without any enforcement action whatsoever. Some enforcement was required for the other two and a half, but the cost of collecting one dollar's revenue in this country is less than half a penny. No other country in the world has such remarkable compliance, and it demonstrates a very broad respect for law.

If there were a wholesale boycott of the income taxes, there is very little that could be done about it by law. The tax system would be unravelled and government--and law--would be unravelled along with it. The same voluntary compliance exists in other areas of law. Most corporations do not wait to be sued before obeying the antitrust laws. Most people pay their parking tickets before being hauled into court.

Yet, intertwined with this strong tradition of lawfulness and individual responsibility, there exists another and less happy thread of values. These values deem it somehow ignoble to report criminal activities to the authorities. The very labels we give those who violate this set of values indicate the depth of our revulsion at a "squealer" or "informer."

This thread is wholly understandable. It springs, I think, from our distaste for the schoolgirl who "tattles" to win the teacher's favor--or her older counterpart who informs in order to secure personal benefit.

But there is a crucial distinction between that kind of informer and the man, confronted with knowledge of wrongdoing, who comes forward to report it, not for personal gain, but often at great personal risk and sacrifice.

This distinction is too often lost sight of in our affairs; the distaste for informers is pervasive. Only last month, the chief counsel of a Senate Subcommittee questioned Senator Robert Kennedy about a labor official who had been much troubled by the morality of activities in his union. The counsel asked whether he had, while Attorney General, put a man who "would normally be described as a "fink" in touch with a magazine.

"Normally described as what?", the Senator asked.

"Fink", the subcommittee counsel said, F-I-N-K. A stool pigeon. Does that word strike a chord?"

I find it profoundly disturbing that someone who, at personal risk, is willing to come forward and report illegal activities should be dubbed a "fink" or "stool pigeon" by anyone, much less by a man in an important public office. We know from repeated experience how central such courage and conduct can be to the effective enforcement of law. It is often the only lever.

In 1961, a group of citizens in a community in a south-central state, alarmed about flagrant gambling and prostitution violations in their town, established a reform committee. They chose a prominent

attorney to run for county sheriff. Not long after the lawyer announced his candidacy, he was drugged and put in a hotel room with a striptease dancer. The police were called and the lawyer was arrested.

The attempt to frame the attorney and tar the reform group might have worked--except for the personal courage of one individual, a photographer who had been asked to take a compromising photograph of the attorney and had refused. This man was enormously disturbed by these events and talked to his minister about what to do. Though greatly frightened of reprisals, he came forward to testify at the lawyer's trial, naming some of the men involved in the effort to destroy the lawyer's reputation.

No one pressured the photographer to testify. He did so on his own volition, his only motivation being a sense of justice. His testimony destroyed the case against the lawyer. Indeed, the persons responsible for framing him themselves were subsequently convicted.

The attorney was later elected sheriff by a landslide and succeeded in ending the illegal activities that had flourished in the community.

Now, do you think that the courageous photographer who made that result possible should be castigated as a "fink" or "stool pigeon?"

Often--as in the case I have just cited--the testimony of one witness is enough to crack a whole network of crime. Because not all witnesses come forth voluntarily, appropriate legal means are sometimes needed to compel a witness to testify.

On Thursday, I asked Congress to enact new legislation which would grant a witness immunity from prosecution to compel his testimony. A witness who is believed to have essential information on criminal activities would no longer be able to avoid testifying on the grounds of self-incrimination.

It is a truth we learn from the Old Testament that the burdens which afflict man and the world are not necessarily meted out evenly. Job questioned why he should be singled out for suffering.

A well-meaning and law-abiding citizen of Selma, Alabama, might question why his business should be damaged or the life of his community be disrupted by a racial dispute, while others, who may also share in the fault, are left untouched. A man who happens to witness a murder may wonder why he has to get involved in something that is none of his business.

It is at times of special stress that adherence to law takes on particular meaning. It is safe and easy to be law-abiding when that means passive obedience and inert respect for law. Unless the individual also honors the responsibility that events and circumstances bring to him, however, the tissue of democratic order breaks down. "It is only in winter," according to the old epigram, "that you can tell which trees are evergreen."

Many of you recall the stabbing to death in Queens, New York, last year of 28-year-old Kitty Genovese. The story was treated rather routinely, written up in a four-paragraph account in the New York Times--until it turned out that there were 38 witnesses to the murder. They had watched the crime taking place over a period of half an hour from the windows of their apartments, without calling the police.

Only after the woman was dead did one man call the police and he did so only after phoning a friend for advice and crossing the roof of the building to the apartment of an elderly woman to get her to telephone. "I didn't want to get involved", he explained later. That statement pretty well summarized the explanations of the other 37 witnesses, too.

The Genovese case received a lot of publicity after that and expressions of shock came from every quarter. But the worst thing about the story is that aside from its particular horror and the fact that so many people saw it, it is not unusual.

Every day crimes are committed but go unreported because people do not "want to get involved." Robberies occur on crowded busses, or subways, and shootings occur in well-peopled streets only because too many people do not "want to get involved."

Fear of violence forces hundreds of thousands of Americans to live a circumscribed life. They are afraid to use public streets, parks, busses, or subways after dark. Much of this fear and much of the violence could be dissolved if more people were willing to step forward to help.

I said that the burdens of citizenship fall unequally. The weight of events and responsibility in upholding the law falls unequally on whole communities as well.

When I testified recently on the Voting Rights bill before the Senate Judiciary Committee, I said that new legislation was needed because "the judicial process, upon which all existing remedies depend, is institutionally inadequate to deal with practices so deeply rooted in the social and political structure."

One columnist seized upon this statement to assert that I distrust the American judicial system and have no "faith in the majesty of the law." If that were true, I would resign today. His charge should, rather, be addressed to the citizens of those towns who are systematically evading court orders, or who are purposefully tying up the courts with suits they know they cannot win.

They are showing an almost anarchic disrespect for law, and they have made the Voting Rights bill not only necessary, but inevitable.

The mayor of a Southern city and his attorney visited me recently in my office. We talked, among other things, about the integration of schools in their city. They told me that they were going to contest integration all the way to the Supreme Court.

There may be some individual differences among the legal cases in the area of school integration. But clearly, their intention is to use the courts to delay and frustrate rather than to test, in good faith, some undecided legal principle. The Supreme Court has unanimously upheld desegregation in every similar case brought to it.

To know what the law is and to litigate anyway, using some technicality as an excuse, is more than an impropriety; it is an attack on the working of the law itself.

It is precisely because of such irresponsible tactics of delay and evasion that we wrote into the Voting Rights bill provisions under which Federal registrars can be appointed automatically in counties where there is presumptive evidence that Negroes have been unable to vote. Recalcitrant registrars have demonstrated too great an ingenuity at evading court orders, and the courts' ability to police the state registration process has been unequal to the task. The courts have not been able to keep up, and Negroes have not been able to register--any more than the courts, unaided, could enforce the payment of taxes if millions refused to pay them.

Through each of the cases I have touched on--the attitude that labels a man who exposes crime a "stool pigeon", or the reluctance of witnesses to come forward to help Miss Genovese, or the willingness of a mayor to tie up the courts to prevent laws which he does not like from taking effect--there runs the same thread, a lack of respect for and trust in the law.

In his thoughtful book on the Genovese case, Thirty-Eight Witnesses, A. M. Rosenthal, the metropolitan editor of the New York Times, writes that what happened was "a symptom of a terrible reality in the human condition--that only under certain situations and only in response to

certain reflexes or certain beliefs--will a man step out of his shell toward his brother."

We cannot change the nature of man, but we can change some of the conditions under which men will be willing to give the law firmer support. Positive and practical steps can be taken to increase the rewards and mitigate the damages of involvement.

People accused of failing to report a crime often blame police discourtesy or inattentiveness to complaints. Whatever the merits of this argument, certainly the foreknowledge of courtesy on the part of authorities is helpful.

The mechanics of legal procedure and the workings of the courts often tend unnecessarily to tax or inconvenience citizens who voluntarily come forward to participate. Removing some of these barriers involves relatively minor changes that would more than pay for themselves in lower crime rates.

We can pay witnesses a reasonable amount for the time they spend in court, for instance. In some jurisdictions, courts pay witnesses, who must take time off from their work, as little as 75 cents a day for their time. It is a fair assumption that witnesses would be readier to come forward if they were assured that no economic hardship would result from doing so.

A companion reform is to lessen the amount of time witnesses must spend in court and the attendant delays and uncertainties. A witness may wait around for several hours only to be told that the case has been put off to some future date. Fewer continuances and less delay in court might mean more judges to handle the caseload; but the result would be faster, fairer justice.

In some cases, witnesses are reluctant to come forward for a more compelling reason than the loss of a few days' time or salary. The reason is fear--fear of reprisals against themselves or their families, the loss of a job or even the loss of a life.

This is the kind of situation that confronts an individual who has information about a major racketeering operation or a Ku Klux Klan bombing of the home of a civil rights leader.

In the federal system, we already are prepared to go to almost any length to protect witnesses and their families. It is not unusual for federal marshals to live with them, or for us to help individuals relocate and establish new identities, or to take other protective measures.

Certainly, it is in the highest interest of society to give persons in this position the ultimate incentive to provide information. Anyone with the courage and fortitude to risk life or property in coming forth to testify on the violation of law should, at the very least, be given ironclad guarantees of protection for himself and his family so long as it is needed.

Such incentives cannot do the job alone. A greater degree of community support and recognition for persons who voluntarily aid in the enforcement of law is equally important. Such support can take the form of actual awards in cases of conspicuous gallantry, such as that which was recently given by the Secretary of the Navy to the sailor who fought off the attackers of a woman in a Philadelphia subway while several other adult males huddled in a corner. Or such support can be expressed by an encouraging rather than frowning attitude on the part of an employer when a worker takes the day off to testify in court.

More community support will mean a greater willingness among the community's leaders to take personal stands in support of the law. How can one expect the man in the street not to fear becoming involved when the leaders of his community are unwilling to be committed?

One of the many people interviewed in the Genovese case about the reluctance of witnesses to call police was a prominent theologian. He sermonized at length on the horror of it all, saying that perhaps "depersonalizing" had gone farther than he thought in New York. Then, ironically, he added, "don't quote me."

I should like to see greater willingness to be quoted, to be named, to be personally committed in support of law. And this extends from that New York theologian to the Southern businessman who scrupulously pays his taxes and gives generously to the Community Chest, but fails to speak out against violence by racists in his town.

Accepting responsibility for the preservation of law not just in some areas--where it suits or pleases us-- but also in areas where it might mean difficulty or embarrassment, is not easy. It does not allow for comfortable scapegoats--the police, or communists, or outside agitators. It does not allow for hiding behind the mantle of states rights or blaming the Federal government for whatever goes wrong.

It means, when the occasion calls for it, risking loss or pain for a fellow citizen, so that he, in turn, might on another occasion be equally willing to aid us.

President Johnson stressed the central role of the individual in law enforcement in the Message on Law Enforcement and the Administration of Justice he sent to Congress last month.

He said:

"Law enforcement cannot succeed without the sustained-- and informed--interest of all citizens. It is not enough to reflect our concern over the rise in crime by seeking out single answers or simple answers. They do not exist. The people will get observance of the law and enforcement of the law if they want it, insist on it, and participate in it."

There could be no surer text for the observance of either Law Day or of the law.